

EXHIBIT 9

From: Belusko, Allyn
Sent: Monday, August 26, 2024 2:18 PM
To: Saady, Nicholas; Arora, Kaveri; Schweitzer, Lauren J.
Cc: Buchner, Allison W.; Kazlow, Nathaniel; #MP METAx; Finguerra-DuCharme, Dyan; Hoffman, Lara Kasten
Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoena to Beige Key LLC

Counsel,

We confirm that the Beige Key deposition will not go forward tomorrow. Beige Key is moving to quash the deposition subpoena in the United States District Court for the Northern District of California.

Best,

Allyn Belusko

KIRKLAND & ELLIS LLP
2049 Century Park East, Suite 3700
Los Angeles, CA 90067
T +1 310 552 5967 **M** +1 424 440 0479
F +1 310 552 5900

abelusko@kirkland.com

From: Saady, Nicholas <nsaady@pryorcashman.com>
Sent: Monday, August 26, 2024 1:23 PM
To: Arora, Kaveri <KArora@pryorcashman.com>; Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>
Cc: Buchner, Allison W. <allison.buchner@kirkland.com>; Belusko, Allyn <allyn.belusko@kirkland.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>
Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoena to Beige Key LLC

This message is from an EXTERNAL SENDER

Be cautious, particularly with links and attachments.

Counsel,

We write to confirm, pursuant to your prior representations, that Beige Key is not attending the deposition tomorrow. We do so as we need to settle arrangements for the reporter and counsel involved promptly.

Please let us know within the next two hours. Thank you.

Nicholas Saady
PRYOR CASHMAN LLP

Cell: 760-989-2024
Office: 212-326-0109

Address: 7 Times Square (Times Square Tower), New York, NY 10036-6569

[Profile](#) || [LinkedIn](#)

From: Arora, Kaveri <KArora@pryorcashman.com>

Sent: Friday, August 23, 2024 2:15 PM

To: Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>

Cc: Buchner, Allison W. <allison.buchner@kirkland.com>; Saady, Nicholas <nsaady@pryorcashman.com>; Belusko, Allyn <allyn.belusko@kirkland.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>

Subject: Re: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoena to Beige Key LLC

Lauren,

Your email is unproductive and simply rehashes Beige Key's and Facebook's unfounded arguments, with which we disagree. We've stated our position numerous times and nothing in your email warrants a further response. We refuse to engage in additional back and forth which serves no purpose other than to waste time and resources.

Once again, we look forward to seeing Beige Key's witness at the deposition next week or reviewing your motion papers.

All rights reserved.

Best regards

Kaveri

Kaveri Arora

Pryor Cashman LLP

7 Times Square

New York, NY 10036-6569

212.326.0453 (Direct) | 610.368.5482 (Mobile) | 212.515.6954 (Fax)

karora@pryorcashman.com | www.pryorcashman.com

On Aug 23, 2024, at 12:47 PM, Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com> wrote:

Kaveri,

Your email rewrites the history of the parties' discussions and discovery and ignores the Federal Rules of Civil Procedure. We disagree. To address the most misstatements in your email:

1. **You** were the ones who withdrew the offer to depose MPI's 30(b)(6) witness, we did not turn it down. We had been willing to accept the offer of putting up a 30(b)(6) witness from MPI and told you we would do so subject to MPI's objections on the scope of your grossly overbroad topics. You took the position that if MPI was going to raise **any** objections to the scope of your subpoena topics (apart from the two topics you agreed to withdraw) then you would not convert to a deposition of MPI's 30(b)(6) witness and instead insisted on making Beige Key file a motion.
2. You served an invalid subpoena with grossly overbroad topics. Beige Key is well within its right to object and there was nothing improper about insisting you reissue it. The Rules require you to include a valid *place* for compliance. This has significant implications, including for jurisdiction over a motion to quash, which we'd told you we intended to file.

3. On scope, discovery is not your way or the highway: The Rules permit discovery *only* of “nonprivileged matter that is **relevant** to any party's claim or defense and **proportional** to the needs of the case[.]” FRCP 26(b)(1) (emphasis added). You saying you want things in discovery does not entitle you to get them (nor does your expert's declaration improperly opining on relevance). And it is ordinary and appropriate for a subpoena target or recipient of a 30(b)(6) deposition notice to raise objections when (as here) topics are overbroad, disproportionate, and/or seek wholly irrelevant information.
4. As we repeatedly told you both on our most recent telephone discussion and on other discussions and letters in the past, none of the cases you have cited supports your position that any of the **acquisition** agreements that you seek are relevant. In contrast, the authority that we cited shows clearly that the **only** agreements that are relevant are those with a license and royalty provision—which is what we agreed to produce. See *Bigfoot 4X4, Inc. v. Individuals, Corps., Ltd. Liab. Companies, Partnerships, & Unincorporated Associations Identified on Schedule A Hereto*, No. 1:22-CV-06758, 2024 WL 3161626, at *3 (N.D. Ill. June 25, 2024).
5. Producing the agreements at issue in lieu of a deposition is not a reasonable request or solution. MPI refused to produce the agreements because they are irrelevant, disproportionate, and (contrary to your repeated assertions) MPI was not ordered to produce them. There is a significant burden to producing highly sensitive and wholly irrelevant agreements (at least some of which include confidentiality requirements obligating MPI to notify or get permission from the counterparties).
6. Given that Beige Key has no unique, non-cumulative information not in MPI's position, your insistence on proceeding with this subpoena is nothing more than an effort to needlessly drive up litigation costs, waste resources, and avoid limits on depositions and party discovery. We remain **willing to put up a witness from MPI on 30(b)(6) topics subject to our objections**. There is no justifiable reason for you to refuse this offer.
7. Throughout discovery, MPI has worked tirelessly to field your seriatim and increasingly unreasonable demands while also dealing with significant technical issues that were not of MPI's creation and which MPI had every incentive and desire to avoid. Your constant efforts to recast this history as one of delay or gamesmanship by MPI are demonstrably false.
8. Your description of the history of privilege logs is inaccurate. MPI produced its first privilege log in February 2024, and produced several thereafter. As we have explained repeatedly would be the case, the vast majority of the entries on the most recent log were **repeated** entries from those past privilege logs which reflect the results of the de-duplication and re-review processes that we undertook rather than newly-logged documents. And we did this in an effort to consolidate to avoid re-producing multiple logs, which was intended to lessen the burden on your side.
9. In the spirit of reasonableness and professional courtesy, MPI will agree to extend the RFA deadline by 1 week while you send to us and we consider the modest extension of fact discovery that you asked us to consider but for which you have yet to make a specific proposal.

Given the timing and deadline for Beige Key's motion to quash, we ask that you kindly respond to this email by 3 pm PT today.

Warm regards,

Lauren Schweitzer

KIRKLAND & ELLIS LLP

555 South Flower Street, Los Angeles, CA 90071

T +1 213 680 8252

F +1 213 680 8500

lauren.schweitzer@kirkland.com

From: Arora, Kaveri <KArora@pryorcashman.com>

Sent: Friday, August 23, 2024 7:56 AM

To: Buchner, Allison W. <allison.buchner@kirkland.com>; Saady, Nicholas <nsaady@pryorcashman.com>; Belusko, Allyn <allyn.belusko@kirkland.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>

Cc: Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoena to Beige Key LLC

Allison,

During multiple meet and confers and significant correspondence since the June 20 hearing before Judge Stanton, we have articulated the necessity and propriety of the Beige Key Subpoena and the topics therein. None of your objections are valid or availing, for reasons we have expressed extensively and repeatedly. The subpoena topics are highly relevant, for reasons we have articulated before the court and to you, with reference to case law. The subpoena topics also pose no undue burden, as they are extremely narrow (narrowed even further by Meta, in good faith) and deal with what you have purported to be **less than 20 documents**. Your email seems to suggest that we should instead depose Facebook rather than Beige Key, yet you conveniently ignore we made this exact proposal just days ago, which you outright refused. Further, this entire process accords with Judge Stanton's orders for the continuance of discovery in this Action. Your proposed declaration is not a real compromise. It falls hopelessly short, and you know it given our correspondence and meet and confers.

We emphasize that Beige Key could have potentially avoided a deposition if you had produced the small set of highly relevant documents that we have — for nearly a year now — validly sought to obtain. That is the only true offer of compromise: produce the agreements and we will withdraw the subpoena.

Beige Key and Facebook have never been concerned with time and resource expenditure in this Action. They have needlessly delayed, resisted and forced Meta to unnecessarily spend time and resources — including by forcing Meta to reissue an already valid subpoena. The most recent example is Facebook taking nearly seven months to produce revised privilege logs, now serving a combined revised privilege log with nearly 20,000 entries, alarmingly, just over a month before the close of fact discovery.

Given that the parties have been at an impasse for weeks on this issue, and no one has changed their positions, we are not amenable to withdrawing the subpoena. Beige Key has had weeks to prepare any motion that it believes is more cost efficient and productive than simply producing the agreements. If you agree to produce the written agreements, we will withdraw the subpoena. Otherwise, we look forward to seeing the Beige Key witness at next week's deposition or reviewing your motion. If there is a new position that you would like to raise concerning the Beige Key subpoena, we can make ourselves available this afternoon. With respect to the RFA deadline, we are happy to agree to extend the deadline and can have a meet and confer at a later date as to the discovery schedule generally.

Best regards,
Kaveri

Kaveri Arora
PRYOR CASHMAN LLP
7 Times Square
New York, NY 10036-6569

212.326.0453 (Direct) | 610.368.5482 (Mobile) | 212.515.6954 (Fax)

karora@pryorcashman.com | www.pryorcashman.com

From: Buchner, Allison W. <allison.buchner@kirkland.com>

Sent: Friday, August 23, 2024 8:24 AM

To: Saady, Nicholas <nsaady@pryorcashman.com>; Belusko, Allyn <allyn.belusko@kirkland.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>

Cc: Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoena to Beige Key LLC

Counsel,

We continue to believe that MetaX's subpoena for the deposition of Beige Key LLC ("Beige Key Subpoena") is unnecessary and improper. Even putting aside Beige Key's and Meta Platform's general and specific objections to, *inter alia*, the scope and irrelevance of the topics for examination listed in the Beige Key Subpoena (all of which Meta Platforms and Beige Key have expressly reserved), Beige Key is a non-party to this litigation and **does not possess any unique, non-cumulative information that Meta Platforms would not likewise possess**. We would like to avoid the time, expense and burden of opening a new matter in the United States District Court for the Northern District of California and filing a motion to quash the Beige Key Subpoena, which will ultimately require resources from all parties and counsel (and potentially, two courts).

We'd like to discuss other potential paths forward. For instance, if it would be helpful in resolving our dispute as to the Beige Key Subpoena, Beige Key is willing to provide a declaration that describes its corporate relationship to Meta Platforms and confirms, as noted above, that it does not possess any information that is not also in Meta Platforms' possession.

If we are not able to resolve this today, we will have no choice but to file our motion to quash the Beige Key Subpoena in the Northern District of California. **Given this timing, please confirm MetaX withdraws its subpoena to Beige Key or provide your availability to further meet and confer today, Friday, August 23.** We are available any time after 8:30 am PT / 11:30 am ET.

Thank you,
Allison

Allison W. Buchner

KIRKLAND & ELLIS LLP

2049 Century Park East, Suite 3700, Los Angeles, CA 90067
T +1 310 552 4302 C +1 310 909 9955 F +1 213 680 8500

allison.buchner@kirkland.com

From: Buchner, Allison W.

Sent: Tuesday, August 20, 2024 4:33 PM

To: 'Saady, Nicholas' <nsaady@pryorcashman.com>; Belusko, Allyn <allyn.belusko@kirkland.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>

Cc: Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten

<LHoffman@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoena to Beige Key LLC

Counsel,

We write in response to your 8/15 and 8/19 emails and further to our discussion yesterday. As we noted during our call yesterday, we never “insisted” that MetaX take the deposition of Meta Platforms before it subpoenaed Beige Key; rather, we indicated we did not believe deposing Beige Key was envisioned by Judge Stanton’s comments at our last discovery conference, contrary to your representation, or that the deposition was necessary at all. In any event, we carefully considered your 8/15 proposal, and as discussed yesterday, Meta Platforms is willing to provide a witness to testify on the Topics 1-10 in MetaX’s subpoena to Beige Key, ***subject to and without waiving Meta Platforms’ objections to those topics***. When we reviewed your 8/15 proposal, we assumed you would follow the required protocol for a 30(b)(6) deposition of a party, i.e., issue a 30(b)(6) notice, and Meta Platforms would serve objections to that notice and provide a witness subject to those objections. Yesterday, you stated that because Meta Platforms would not provide a witness to testify on the topics exactly as written, you were withdrawing your 8/15 proposal. As we indicated yesterday, Beige Key will not provide a witness on the date specified on MetaX’s reissued subpoena and intends to move to quash that subpoena in the United States District Court for the Northern District of California as that is the court where it is required to file such a motion.

If further discussion regarding this issue would be helpful, we can discuss on our scheduled call tomorrow.

Warm Regards,

Allison W. Buchner

KIRKLAND & ELLIS LLP

2049 Century Park East, Suite 3700, Los Angeles, CA 90067
T +1 310 552 4302 C +1 310 909 9955 F +1 213 680 8500

allison.buchner@kirkland.com

From: Saady, Nicholas <nsaady@pryorcashman.com>

Sent: Monday, August 19, 2024 2:46 PM

To: Belusko, Allyn <allyn.belusko@kirkland.com>; Buchner, Allison W. <allison.buchner@kirkland.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>

Cc: Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoena to Beige Key LLC

Counsel,

Following today’s meet and confer and further to our proposal below, we understand that Facebook will not agree to put up a 30(b)(6) corporate representative to testify on the narrow topics listed in the Beige Key subpoena, and that Facebook — like Beige Key — objects to the scope of the subpoena (i.e., any testimony beyond agreements that include a royalty payment in exchange for a trademark license for any Meta-formative trademark). Given Facebook’s refusal, we confirm we intend to move forward with the Beige Key subpoena. Again, we are willing to strike Topics 11 and 12 in good faith, but otherwise must proceed with taking the Beige Key deposition on the stated date to continue progressing discovery.

All rights reserved; none waived.

<image001.png>

Nicholas Saady

PRYOR CASHMAN LLP

Cell: 760-989-2024

Office: 212-326-0109

Address: 7 Times Square (Times Square Tower), New York, NY 10036-6569

[Profile](#) || [LinkedIn](#)

<image001.png>

From: Saady, Nicholas

Sent: Saturday, August 17, 2024 9:25 AM

To: 'Belusko, Allyn' <allyn.belusko@kirkland.com>; Buchner, Allison W.

<allison.buchner@kirkland.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>

Cc: Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>;

Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@PRYORCASHMAN.com>; Hoffman, Lara Kasten

<LHoffman@PRYORCASHMAN.com>; Arora, Kaveri <KArora@PRYORCASHMAN.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoena to Beige Key LLC

Thanks Allyn. Yes, we are available from 1pm to 1:30pm on Monday. I will send a Zoom invite now

Regards,

Nick

<image001.png>

Nicholas Saady

PRYOR CASHMAN LLP

Cell: 760-989-2024

Office: 212-326-0109

Address: 7 Times Square (Times Square Tower), New York, NY 10036-6569

[Profile](#) || [LinkedIn](#)

<image001.png>

From: Belusko, Allyn <allyn.belusko@kirkland.com>

Sent: Friday, August 16, 2024 7:18 PM

To: Saady, Nicholas <nsaady@pryorcashman.com>; Buchner, Allison W.

<allison.buchner@kirkland.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>

Cc: Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>;

Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten

<LHoffman@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoena to Beige Key LLC

Nick,

We would like to discuss your proposal below. Are you available Monday between noon and 3 pm EST for a call?

Best,

Allyn Belusko

KIRKLAND & ELLIS LLP

2049 Century Park East, Suite 3700

Los Angeles, CA 90067

T +1 310 552 5967 M +1 424 440 0479

F +1 310 552 5900

abelusko@kirkland.com

From: Saady, Nicholas <nsaady@pryorcashman.com>

Sent: Thursday, August 15, 2024 1:21 PM

To: Buchner, Allison W. <allison.buchner@kirkland.com>; Kazlow, Nathaniel

<nkazlow@pryorcashman.com>

Cc: Belusko, Allyn <allyn.belusko@kirkland.com>; Schweitzer, Lauren J.

<lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme,

Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten

<LHoffman@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoena to Beige Key LLC

Counsel,

Following yesterday's meet and confer, to further narrow what is already a narrow subpoena, we agree to strike topics 11 and 12 in the Beige Key subpoena.

In addition, during our meet and confer, you articulated an objections that Meta should first depose a Facebook representative on the topics identified in the Beige Key subpoena. As Meta's further good faith attempt to prevent the unnecessary expenditure of time and resources associated with your proposed motion (which is baseless for reasons we have stated), and in light of your objection, Meta seeks Facebook's consent to take two 30(b)(6) depositions of Facebook. The first deposition will only deal with topics 1 to 10 in the Beige Key subpoena (as amended so that they are applicable to Facebook, not Beige Key); the second deposition notice will be served at a later time during fact discovery on a variety of other topics. Because Facebook has not yet completed its document production, and there are outstanding issues concerning its production and privilege logs, Meta cannot serve one Rule 30(b)(6) deposition notice at this time. However, if you are insisting that we first depose "Facebook executives" on the topics set forth in the Beige Key subpoena, we believe this is a reasonable compromise and one which will save the parties' and courts' time and resources.

The foregoing is not a comprehensive statement of our client's rights or positions, and nothing herein shall be deemed to be an express or implied waiver of any of our client's rights, claims or remedies all of which are expressly reserved.

<image001.png>

Nicholas Saady

PRYOR CASHMAN LLP

Cell: 760-989-2024

Office: 212-326-0109

Address: 7 Times Square (Times Square Tower), New York, NY 10036-6569

[Profile](#) || [LinkedIn](#)

<image001.png>

From: Buchner, Allison W. <allison.buchner@kirkland.com>

Sent: Tuesday, August 13, 2024 8:15 PM

To: Kazlow, Nathaniel <nkazlow@pryorcashman.com>

Cc: Belusko, Allyn <allyn.belusko@kirkland.com>; Saady, Nicholas <nsaady@pryorcashman.com>; Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>
Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoenas to Beige Key LLC and Chan Zuckerberg Initiative, LLC

Hi Nathaniel –

We are available at 3 pm ET tomorrow. If that time still works for you, would you please send a calendar invite?

Warm Regards,
Allison

Allison W. Buchner

KIRKLAND & ELLIS LLP

2049 Century Park East, Suite 3700, Los Angeles, CA 90067
T +1 310 552 4302 C +1 310 909 9955 F +1 213 680 8500

allison.buchner@kirkland.com

From: Kazlow, Nathaniel <nkazlow@pryorcashman.com>

Sent: Tuesday, August 13, 2024 3:37 PM

To: Buchner, Allison W. <allison.buchner@kirkland.com>

Cc: Belusko, Allyn <allyn.belusko@kirkland.com>; Saady, Nicholas <nsaady@pryorcashman.com>; Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoenas to Beige Key LLC and Chan Zuckerberg Initiative, LLC

We disagree that the subpoena to Beige Key LLC is invalid. Purely to save the parties' time and resources, we will reissue the subpoena. Please find it attached, for purposes of service.

We are available to meet and confer tomorrow at 12:30pm ET or 3pm ET. Please let us know if either time works for you and we will circulate a zoom invite.

All rights reserved.

NATHANIEL KAZLOW

Associate

PRYOR CASHMAN LLP

7 Times Square, New York, NY 10036-6569

nkazlow@pryorcashman.com

Direct Tel: 212-326-0162

www.pryorcashman.com

A member of Interlaw, an International Association of Independent Law Firms

From: Buchner, Allison W. <allison.buchner@kirkland.com>
Sent: Tuesday, August 13, 2024 4:15 PM
To: Arora, Kaveri <KArora@pryorcashman.com>
Cc: Belusko, Allyn <allyn.belusko@kirkland.com>; Saady, Nicholas <nsaady@pryorcashman.com>; Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>
Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoenas to Beige Key LLC and Chan Zuckerberg Initiative, LLC

Apologies for multiple emails. I hit send too soon. One additional note in blue below.

Allison W. Buchner

KIRKLAND & ELLIS LLP

2049 Century Park East, Suite 3700, Los Angeles, CA 90067
T +1 310 552 4302 **C** +1 310 909 9955 **F** +1 213 680 8500

allison.buchner@kirkland.com

From: Buchner, Allison W.
Sent: Tuesday, August 13, 2024 1:13 PM
To: 'Arora, Kaveri' <KArora@pryorcashman.com>
Cc: Belusko, Allyn <allyn.belusko@kirkland.com>; Saady, Nicholas <nsaady@pryorcashman.com>; Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>
Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoenas to Beige Key LLC and Chan Zuckerberg Initiative, LLC

Hi Kaveri,

When we spoke about the third party subpoenas on August 5, you asked if there were any topics on which Beige Key, LLC was willing to provide a witness. We have offered to do so – to provide a witness to testify on the topics as limited by Beige Key, LLC's written objections and responses, as we said we'd do in our email on August 6. You are now taking the position that those objections and responses "serve no purpose." Given that position, we are left with no option but to seek relief in court. As you know, under Rule 45, we are required to do so in the Court where compliance with the subpoena is required. The subpoena, as issued, does not specify a physical place of compliance (let alone a valid one). Please reissue with a valid place of compliance. **To streamline this process, we will accept service by email.**

Unfortunately, I'm no longer available to meet and confer at 5 pm EST, but am free at 6 pm EST or any time after that and will make myself available when it works for you this evening. If that time works, please send an invite with zoom. If it does not, please provide available times early tomorrow.

I'm not going to address your comment alleging that we are somehow pulling your team into exchanges and disputes or causing acrimony, except to say that it could not be further from the truth. We have – at all times – been respectful and courteous in our communications and will continue to do so. The record of our correspondence has and will speak for that.

Best,
Allison

Allison W. Buchner

KIRKLAND & ELLIS LLP

2049 Century Park East, Suite 3700, Los Angeles, CA 90067
T +1 310 552 4302 C +1 310 909 9955 F +1 213 680 8500

allison.buchner@kirkland.com

From: Arora, Kaveri <KArora@pryorcashman.com>
Sent: Tuesday, August 13, 2024 5:56 AM
To: Buchner, Allison W. <allison.buchner@kirkland.com>
Cc: Belusko, Allyn <allyn.belusko@kirkland.com>; Saady, Nicholas <nsaady@pryorcashman.com>; Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>
Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoenas to Beige Key LLC and Chan Zuckerberg Initiative, LLC

Thanks, Allison. We'd appreciate a response by 4pm EST and can meet and confer at 5pm EST, if necessary.

Kaveri Arora

PRYOR CASHMAN LLP

7 Times Square
New York, NY 10036-6569
212.326.0453 (Direct) | 610.368.5482 (Mobile) | 212.515.6954 (Fax)
karora@pryorcashman.com | www.pryorcashman.com

From: Buchner, Allison W. <allison.buchner@kirkland.com>
Sent: Tuesday, August 13, 2024 12:56 AM
To: Arora, Kaveri <KArora@pryorcashman.com>
Cc: Belusko, Allyn <allyn.belusko@kirkland.com>; Saady, Nicholas <nsaady@pryorcashman.com>; Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>
Subject: Re: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoenas to Beige Key LLC and Chan Zuckerberg Initiative, LLC

Kaveri,

We will respond to the below message, but it will not likely be by 12 pm EST since our client and most of our team are on the west coast. We remain available to meet & confer in good faith (not just as a "formality") at 1 pm ET. If that time works and you would like to discuss, please send a calendar invite with zoom information.

Allison W. Buchner

KIRKLAND & ELLIS LLP

2049 Century Park East, Suite 3700, Los Angeles, CA 90067
T +1 310 552 4302 C +1 310 909 9955 F +1 213 680 8500

allison.buchner@kirkland.com

On Aug 12, 2024, at 6:39 PM, Arora, Kaveri <KArora@pryorcashman.com> wrote:

Counsel,

We don't understand why you continue to belabor the issue of where the deposition will take place. As we already told you, we are amenable to a virtual or in-person deposition – please just let us know by COB tomorrow (8/13) what you prefer, provide us with three dates before the end of August, and, if you would like Beige Key to be deposited in-person, we will notice the deposition within 100 miles of Menlo Park.

Regardless of locale, we expect the Beige Key corporate representative to be fully prepared to testify on all topics identified in the subpoena. As we explained in prior correspondence, written responses and objections to a deposition subpoena are not contemplated under Rule 45, and are therefore meaningless. Indeed, it is inappropriate for Facebook or Beige Key to narrow the scope of testimony under Rule 45 when there is indisputably no undue burden on Beige Key. If Beige Key does not intend to be prepared to testify on all topics, please let us know by 12pm ET tomorrow; we see no need to delay motion practice and we would like to meet and confer tomorrow at 1pm EST as a formality to confirm the parties' impasse.

Finally, your positions and the exchanges you are drawing us into must stop. It is making the parties' interactions unnecessarily acrimonious and needlessly prolonging discovery and this litigation.

All rights reserved.

Kaveri Arora
PRYOR CASHMAN LLP
7 Times Square
New York, NY 10036-6569
212.326.0453 (Direct) | 610.368.5482 (Mobile) | 212.515.6954 (Fax)
karora@pryorcashman.com | www.pryorcashman.com

From: Belusko, Allyn <allyn.belusko@kirkland.com>
Sent: Monday, August 12, 2024 5:07 PM
To: Saady, Nicholas <nsaady@pryorcashman.com>; Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; Buchner, Allison W. <allison.buchner@kirkland.com>
Cc: #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>
Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoenas to Beige Key LLC and Chan Zuckerberg Initiative, LLC

Counsel,

The cases you cite do not address—or even reference—whether a virtual deposition is a “place of compliance.” And established case law demonstrates that MetaX failed to designate a sufficient “place of compliance.” *See Vega v. Soto*, No. 1:22-CV-000471-JLT-EPG (PC), 2024 WL 3317428, at *3 (E.D. Cal. June 14, 2024) (denying motion to enforce

subpoena and finding subpoena listing place of compliance as “Zoom Meeting” was insufficient). Further, by demanding a virtual deposition without securing (or even seeking) agreement of the parties or court order, MetaX failed to comply with Federal Rule of Civil Procedure 30(b)(4). For the foregoing reasons, MetaX’s subpoenas are thus invalid.

Please provide your availability to discuss deposition location tomorrow. We are available tomorrow at either 1:00 pm EST, or after 5:00 pm EST.

Please also provide support for your position that MPI’s and Beige Key, LLC’s objections and limitations have no effect under the Federal Rules.

Finally, regarding Beige Key’s availability for this deposition, our client is determining who the right person would be and gathering available dates. We will provide those soon.

Best,

Allyn Belusko

KIRKLAND & ELLIS LLP

2049 Century Park East, Suite 3700

Los Angeles, CA 90067

T +1 310 552 5967 M +1 424 440 0479

F +1 310 552 5900

abelusko@kirkland.com

From: Saady, Nicholas <nsaady@pryorcashman.com>

Sent: Friday, August 9, 2024 11:40 AM

To: Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>; Buchner, Allison W. <allison.buchner@kirkland.com>

Cc: Belusko, Allyn <allyn.belusko@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoenas to Beige Key LLC and Chan Zuckerberg Initiative, LLC

Counsel,

We have received Facebook’s and Beige Key’s written responses and objections. We disagree with and reject Facebook’s and Beige Key’s purported objections and proposed limitations. They serve no purpose and have no effect under the Federal Rules, although we appreciate you informing us of your positions with respect to the subpoenas.

As to your objections to the time and place of the depositions, we strongly disagree and note that your positions are contrary to law. *See, e.g., Brennan v. Mylan Inc.*, No. 6:22-MC-06015, 2023 WL 2445344, at *4 (W.D.N.Y. Mar. 10, 2023) (“[E]mploying the zoom platform will remove any burden of time and cost of travel”); *Carrico v. Samsung Elecs. Co.*, No. 15-CV-02087-DMR, 2016 WL 1265854, at *1 (N.D. Cal. Apr. 1, 2016) (recognizing, even pre-pandemic, that courts have found remote videoconference

depositions effective and efficient means of reducing costs). We indicated that the depositions would be virtual to reduce any burden of compliance, and save the parties' and nonparties' time and resources. If you insist on pressing those objections and insist on the depositions being held in person, then we will agree to the same. Also, if you are going to unnecessarily force us to reissue a subpoena stating a physical address, confirm if you will accept service of the subpoena on Beige Key's behalf or if you, instead, insist that we needlessly expend further time and resources serving Beige Key's registered agent.

In light of the above and further to our previous correspondence, please indicate whether Beige Key is available on August 16 or 20 for this deposition.

<image001.png>

Nicholas Saady

PRYOR CASHMAN LLP

Cell: 760-989-2024

Office: 212-326-0109

Address: 7 Times Square (Times Square Tower), New York, NY 10036-6569

[Profile](#) || [LinkedIn](#)

<image001.png>

From: Schweitzer, Lauren J. <lauren.schweitzer@kirkland.com>

Sent: Tuesday, August 6, 2024 6:27 PM

To: Saady, Nicholas <nsaady@pryorcashman.com>; Buchner, Allison W.

<allison.buchner@kirkland.com>

Cc: Belusko, Allyn <allyn.belusko@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>;

Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Kazlow, Nathaniel

<nkazlow@pryorcashman.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoenas to Beige Key LLC and Chan Zuckerberg Initiative, LLC

Nick,

We disagree with the entirety of your email below. We write to confirm as to the timing aspect only—that the deposition of Beige Key LLC will not go forward on August 8. We intend to serve objections and responses to MetaX LLC's subpoenas within just the next couple of days (on behalf of Beige Key and Meta) and will be available to further meet and confer regarding the propriety, scope, and timing of the deposition thereafter.

Best,

Lauren Schweitzer

KIRKLAND & ELLIS LLP

555 South Flower Street, Los Angeles, CA 90071

T +1 213 680 8252

F +1 213 680 8500

lauren.schweitzer@kirkland.com

From: Saady, Nicholas <nsaady@pryorcashman.com>

Sent: Monday, August 5, 2024 11:15 AM

To: Buchner, Allison W. <allison.buchner@kirkland.com>

Cc: Belusko, Allyn <allyn.belusko@kirkland.com>; #MP METAx <MP-METAx@kirkland.com>; Finguerra-DuCharme, Dyan <DFinguerra-DuCharme@pryorcashman.com>; Arora, Kaveri <KArora@pryorcashman.com>; Hoffman, Lara Kasten <LHoffman@pryorcashman.com>; Kazlow, Nathaniel <nkazlow@pryorcashman.com>

Subject: RE: METAx LLC v. Meta Platforms, Inc. — 1:22-cv-06125 — Subpoenas to Beige Key LLC and Chan Zuckerberg Initiative, LLC

Counsel,

We write following this morning's meet and confer. We note that Beige Key refused to put up a witness for Thursday's deposition, despite the narrowness of the deposition topics and despite its current representatives being aware of this impending deposition since Judge Stanton's orders during the hearing on June 6, 2024 (nearly two months ago) as well as our clear statements to follow Judge Stanton's orders with respect to this deposition process during the July 8 meet and confer (affirmed in my Tue 7/9/2024 3:57 PM email). Notwithstanding the foregoing, Meta is willing to postpone Thursday's deposition to an alternative date within the next two weeks (after you confirm with Beige Key its availability, which we understand you are doing today).

We are reviewing the Northern District of Illinois case that you presented to us and can discuss that with you when necessary.

<image001.png>

Nicholas Saady

PRYOR CASHMAN LLP

Cell: 760-989-2024

Office: 212-326-0109

Address: 7 Times Square (Times Square Tower), New York, NY 10036-6569

[Profile](#) || [LinkedIn](#)

<image001.png>